

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

CHRISTOPHER OLEN BAKER,)	
)	
Plaintiff,)	
)	
v.)	No. CIV 17-368-JHP-SPS
)	
JAMES YATES, et al.,)	
)	
Defendants.)	

OPINION AND ORDER
DENYING SECOND MOTION FOR APPOINTMENT OF COUNSEL

Plaintiff has filed a second motion for appointment of counsel (Dkt. 30). He alleges his need for counsel has increased, he is overwhelmed by the process of discovery, and he cannot afford private representation in this matter. He further asserts he has a viable civil rights claim.

“There is no constitutional right to appointed counsel in a civil case.” *Durre v. Dempsey*, 869 F.2d 543, 547 (10th Cir. 1989) (citing *Bethea v. Crouse*, 417 F.2d 504, 505 (10th Cir. 1969)). The decision whether to appoint counsel in a civil matter lies in the discretion of the district court. *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991).

“The burden is on the applicant to convince the court that there is sufficient merit to his claim to warrant the appointment of counsel.” *Hill v. SmithKline Beecham Corp.*, 393 F.3d 1111, 1115 (10th Cir. 2004) (quotation and citation omitted). It is not enough “that having counsel appointed would have assisted [the prisoner] in presenting his strongest possible case, [as] the same could be said in any case.” *Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995). . . . In evaluating a prisoner’s request for appointed counsel, the court should consider “the merits of the prisoner’s claims, the nature and

complexity of the factual and legal issues, and the prisoner's ability to investigate the facts and present his claims." *Hill*, 393 F.3d at 1115 (citations omitted).

Steffey v. Orman, 461 F.3d 1218, 1223 (10th Cir. 2006).

After careful review of Plaintiff's claims, the complexity of the related legal issues, and Plaintiff's ability to investigate the facts raised by the claims, the Court again concludes that appointment of counsel for Plaintiff is not warranted.

ACCORDINGLY, Plaintiff's second motion for appointment of counsel (Dkt. 30) is DENIED.

IT IS SO ORDERED this 22nd day of October, 2018.


James H. Payne
United States District Judge
Eastern District of Oklahoma